

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROLAND ADAMS,

Defendant.

CIV. NO. S-NO-0841 EJG

CR. NO. S-02-257 EJG

ORDER DENYING REQUEST FOR  
CERTIFICATE OF APPEALABILITY

Defendant, a federal prisoner proceeding pro se, has filed a Notice of Appeal from this court's April 11, 2011 order denying his § 2255 motion to vacate, set aside or correct his sentence. Embodied within that document is a "request for a certificate of appealability on all issues." Through administrative oversight, defendant's appeal has not been processed, nor his request for a certificate acted upon even though the appeal was timely filed on April 20, 2011.

A certificate of appealability must be issued before defendant can appeal the decision. See Fed. R. App. P. 22(b). Such certification may issue "only if [defendant] has made a

1 substantial showing of the denial of a constitutional right." 28  
2 U.S.C. § 2253(c)(2). The court must either issue a certificate  
3 of appealability indicating which issues satisfy the required  
4 showing or must state the reasons why such a certificate should  
5 not issue. Fed. R. App. P. 22(b)(1).

6 For all of the reasons stated in the court's April 11, 2011  
7 order, defendant has waived his rights to collaterally attack his  
8 conviction and sentence and, alternatively, has not made a  
9 substantial showing of the denial of a constitutional right.  
10 Accordingly, the motion for a certificate of appealability is  
11 DENIED.

12 IT IS SO ORDERED.

13 Dated: October 12, 2011

14 /s/ Edward J. Garcia  
15 EDWARD J. GARCIA, JUDGE  
16 UNITED STATES DISTRICT COURT  
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